

TENTATIVE RULINGS for LAW and MOTION

August 12, 2020

Pursuant to Yolo County Local Rules, the following tentative rulings will become the order of the court unless, by 4:00 p.m. on the court day before the hearing, a party requests a hearing and notifies other counsel of the hearing. To request a hearing, you must contact the clerk of the department where the hearing is to be held. Copies of the tentative rulings will be posted on Yolo Court's Website, at www.yolo.courts.ca.gov. If you are scheduled to appear and there is no tentative ruling in your case, you should appear as scheduled.

Telephone number for the clerk in Department Nine

(530) 406-6819

Telephone number for the clerk in Department Ten

(530) 406-6816

NOTICE: Effective May 4, 2020, all court appearances are by Zoom or Conference call. Yolo Superior Court Virtual Courtroom and conference call information is posted on the Yolo Court's Website at www.yolo.courts.ca.gov.

TENTATIVE RULING

Case: Rutaganira v. Mitchell

Case No. CV UD 19-2712

Hearing Date: August 12, 2020 Department Ten 9:00 a.m.

Defendant's request for judicial notice is **GRANTED IN PART**. (Evid. Code, § 452.)
Defendant's request to take judicial notice of the Court's Tentative Rulings dated July 7, 2020 (Exh. 2), the Court's Tentative Ruling dated July 20, 2020 (Exh. 3), and the case *Andrus v. Dunbar* (VT 2005) 178 VT. 554 (Exh. 4) is **GRANTED**. (Evid. Code, § 452, subd. (d).)
Defendant's request to take judicial notice of the sixty-day notice to quit (Exh. 1) is **DENIED**. (Evid. Code, § 452.)

Plaintiff's objection to defendant's request for judicial notice of the sixty-day notice to quit (Exh. 1) is **SUSTAINED**. (Evid. Code, §§ 452, 1200.)

Plaintiff's request for judicial notice is **GRANTED**. (Evid. Code, § 452, subd. (d).)

Defendant Krista Mitchell's motion for summary judgment is **DENIED**. (Code Civ. Proc., § 437c, subd. (p)(1).) Defendant fails to establish newly discovered facts or circumstances or a change of law supporting the issues reasserted in the summary judgment motion. The Court already denied defendant's motion for summary judgment filed on June 9, 2020. (Code Civ. Proc., § 437c, subd. (f)(2), (p)(1); Code Civ. Proc., § 1008; UMF 1-5; Plaintiff's RJN, Exhs. A, E; Defendant's RJN, Exhs. 2, 3.) Moreover, defendant once again argues that plaintiff voluntarily forfeited his claim for possession brought pursuant to a "3-Day Notice to Pay Rent or Quit" under Code of Civil Procedure section 1162, subdivision (2) on December 11, 2019, when plaintiff served a "Sixty-Day notice to Quit" on Defendant on June 30, 2020 during the unlawful detainer litigation. Defendant contends that the service of the notice re-affirms Defendant's right to possession of the subject premises and thus, Defendant lawfully possesses the subject premises pursuant to Civil Code section 1946.1 until August 31, 2020. Defendant argues that the

Court lacks jurisdiction to grant possession of the premises to plaintiff pursuant to Civil Code section 1946.1 and Code of Civil Procedure section 1161, because the “Sixty-Day Notice to Quit” has not expired. Defendant fails to cite any law that supports her position and admits that this case involves a “fixed term” lease, so Code of Civil Procedure section 1946.1 is not applicable to this action. If the moving party fails to meet their burden, their motion must be denied; the other party need not make any showing at all. (*Consumer Cause, Inc. v. SmileCare* (2001) 91 Cal.App.4th 454, 468.)

If a hearing is requested, the hearing will be in Department 10, on **Thursday August 13, 2020**, at 9:00 a.m.

If no hearing is requested, and no party appears at the hearing, this tentative ruling is effective immediately. No formal order pursuant to California Rule of Court 3.1312 or further notice is required.

TENTATIVE RULING

Case: **Timothy, Stewart & Lekos Seed Co. v. Bornt & Sons, Inc.**
Case No. CV 19-2439

Hearing Date: **August 12, 2020** **Department Nine** **9:00 a.m.**

The Court, on its own motion, **CONTINUES** the motion to August 21, 2020 at 9:00 a.m. in Department Nine.